

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ALTON D. BROWN,)
)
 Plaintiff,)
 v.) Civil No. 16-1081
)
 TOM WOLF, et. al,)
)
 Defendants.)

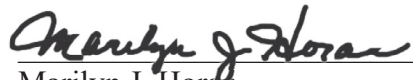
ORDER

Before the Court is an appeal, ECF No. 399, filed by Plaintiff Alton D. Brown, requesting review of the Magistrate Judge’s Memorandum Order, dated March 1, 2021, ECF No. 383, stating that the Court would take no action on “Plaintiff’s Notice of His Constitutional Challenge to Pennsylvania Statute 35. P.S. § 10231.1309,” ECF No. 330. Mr. Brown claims that the Magistrate Judge clearly erred. Mr. Brown erroneously characterizes the Memorandum Order as “holding that the Plaintiff is not entitled to pain relief from Medical Marijuana” ECF No. 399, at 1. The “Notice” filed by Mr. Brown is *not* a request for medical marijuana; it is a constitutional challenge to a Pennsylvania statute that legalizes medical marijuana but prohibits prison inmates from being administered medical marijuana. Mr. Brown’s characterization of his Notice as a challenge to the denial of access to medical marijuana does not change the fact that his ultimate goal is to have the Pennsylvania statute declared unconstitutional. ECF No. 399, at 4. The Court is well aware, in Mr. Brown’s words, of his “attempts to obtain access to medical marijuana,” which he explains is “only an attempt to obtain better pain relief and treatment for his cancer, cancer and other pains, stress, depression, and other medical issues.”¹ ECF No. 399, at 2 (emphasis in original). However, the Magistrate Judge correctly determined that Mr.

¹ The Court also notes that Mr. Brown's request for treatment with medical marijuana was, as he notes, raised at the preliminary injunction hearing. ECF No. 399, at4.

Brown's "claim challenging the constitutionality of this statute is not an imminent danger claim." ECF No. 383, at 2. She therefore properly concluded that the Court would not address the constitutionality of the Pennsylvania statute in this case. There is no error in the Magistrate Judge's decision not to take any action on Mr. Brown's Notice. The Memorandum Order appealed from is not clearly erroneous, contrary to law, or an abuse of discretion. Accordingly, Mr. Brown's Appeal of the Magistrate Judge's Memorandum Order is denied.

IT IS ORDERED this 25th day of March 2021.

A handwritten signature in black ink, appearing to read "Marilyn J. Horan", is written over a horizontal line.

Marilyn J. Horan
United States District Court Judge

cc: Alton D. Brown, pro se
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(via U.S. First Class Mail)